

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

VERNON EDWARD HOPKINS,)
)
Petitioner,)
)
v.) CASE NO. CV416-024
) CR400-128
UNITED STATES OF AMERICA,)
)
Respondent.)

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 5), to which Petitioner has filed an objection (Doc. 7). Petitioner argues that this Court should review his case on the merits because Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551 (2015), which struck the residual clause in the Armed Career Criminal Act as vague, has been made retroactive by the Supreme Court decision in Welch v. United States, ___ U.S. ___, 136 S. Ct. 1257 (2016). (Doc. 7 at 2.) However, Johnson does not apply to Petitioner's case. While Petitioner was sentenced as an Armed Career Criminal, his predicate offenses were not established by use of the residual clause at 18 U.S.C. § 924(e). Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case and Petitioner's 28 U.S.C. § 2255 motion is **DENIED**.

Petitioner's Motion to Amend (Doc. 8) is also **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal. The Clerk of Court is **DIRECTED** to close this case.

SO ORDERED this 29th day of April 2016.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA